

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

**MARTIN RODRIGUEZ; BRITNI
RODRIGUEZ,**

Plaintiffs,

No. 6:23-cv-01863-MK

v.

ORDER

**CITY OF SALEM; SALEM POLICE
DEPARTMENT; MARION COUNTY
SHERIFF'S DEPARTMENT; MARION
COUNTY JUSTICE COURT; MARION
COUNTY,**

Defendants.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation (“F&R”) filed by Magistrate Judge Mustafa Kasubhai. ECF No. 113. Judge Kasubhai recommends that the County Defendants’ Motion to Dismiss, ECF No. 101 be granted; that the City Defendant’s Motion for Summary Judgment, ECF No. 105, be partially construed as a motion for judgment on the pleadings and, so construed, be

granted. Judge Kasubhai recommends that Plaintiff's First Amended Complaint, ECF No. 99, be dismissed with prejudice.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. See *Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, no party has objected to the F&R and the time for doing so has passed. The Court has reviewed the F&R and the record and finds no error. The F&R, ECF No. 113, is ADOPTED. This case is DISMISSED with prejudice. The County Defendants' Motion to Dismiss, ECF No. 101, is GRANTED. The City

Defendants' Motion for Summary Judgment, ECF No. 105, is partially construed as a motion for judgment on the pleadings as set forth in the F&R. So construed, the Motion, ECF No. 105, is GRANTED. Plaintiff's First Amended Complaint, ECF No. 99, is DISMISSED with prejudice. Final judgment shall be entered accordingly.

It is so ORDERED and DATED this 22nd day of October 2024.

/s/Ann Aiken
ANN AIKEN
United States District Judge